

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Stephen Ray Westberry,

Plaintiff,

) C.A. No.: 0:12-588-RBH

vs.

) **ORDER**

)
South Carolina Dept. Of Corrections;

)
William R. Byars, Jr., SCDC Director; Lt.

)
D. Harrouff; Sgt. Daniel Cotter; and John

)
Does,

Defendants

The plaintiff, Stephen Ray Westberry (“Plaintiff”), proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983. This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. Plaintiff has filed a number of Motions to Compel, which do not address the Report and Recommendation or take any issue the Magistrate Judge’s findings. Further, given that these motions seek

production from parties who have either been dismissed or are only now being served, these motions are denied.

In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that Plaintiff’s Complaint in the above-captioned is **DISMISSED** as against Defendants SCDC, William R. Byars, Jr., and Daniel Cotter without prejudice and without issuance and service of process. The Complaint **SHALL BE SERVED** as to Defendant Lt. D. Harrouff and the John Doe defendants.

IT IS FURTHER ORDERED that Plaintiff’s Motions to Compel [Docs. # 18, 23, 25, and 41] are **DENIED**.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
June 20, 2012